

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

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**The Minutes**

**August 28, 2000**

At 9:30 a.m., the court met in the Library and Courts Building for a continuation of its court calendar session. Present: Scotland, Presiding Justice; Morrison, Associate Justice; Kolkey, Associate Justice; and Castillo, Bailiff. Calendar called.

**C033182 THE PEOPLE v. EVANS**

Cause called. Bradley A. Bristow, court appointed counsel, argued for appellant. No appearance was made on behalf of respondent as argument was previously waived and approved. Cause submitted.

**C033779 ZERILLI v. CITY OF SACRAMENTO et al.**

Cause called. Patricia T. Reeves argued for appellant. Jerry Hicks, Deputy City Attorney, argued for respondent. Cause submitted.

At 10:11 a.m., court recessed. At 10:17 a.m., court reconvened with Presiding Justice Scotland, Associate Justice Raye, and Associate Justice Morrison.

**C031339 PULTZ et al. v. RODRIGO**

Cause called. J. Michael Favor argued for appellants. Carolyn Oill argued for respondent. Cause submitted.

At 10:54 a.m., court recessed. At 2:00 p.m., court reconvened with Presiding Justice Scotland, Associate Justice Morrison, and Associate Justice Kolkey.

**C033489 In re the Marriage of WILFLEY**

Cause called. Freda D. Pechner argued for appellant. Harrison L. Goodwin argued for respondent. Cause submitted.

At 2:41 p.m., court adjourned until 9:30 a.m., September 18, 2000.

**C031769 PATRICIA P. v. LAURIE B. (Not for Publication)**

It is ordered that the opinion filed herein on July 27, 2000, be modified as follows:

...

There is no change in the judgment.  
Respondent's petition for rehearing is denied.

BLEASE, Acting P.J.  
Raye, J.  
Morrison, J.

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### August 28, 2000 Continued

We concur: DAVIS, J.  
Scotland, P.J.  
Sims, J.

We concur: DAVIS, J.  
Blease, Acting P.J.  
Raye, J.

I concur: MORRISON, J.  
Callahan, J.

I concur in the opinion except for its conclusion that sanctions are unwarranted for the appeal of Dr. Latham. In my view, Dr. Latham's appeal on its face "indisputably has no merit." ( *In re Marriage of Flaherty* (1982) 31 Cal.3d 637, 650.) I would set a hearing at which the propriety of sanctions could be adjudicated. (See *In re Marriage of Flaherty, supra*, 31 Cal.3d at p. 650.)

Sims, Acting P.J.

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- C034444      In re KIRSHA K. AND FRANCESCA K.; PLACER COUNTY  
DEPARTMENT OF HEALTH & HUMAN SERVICES v. STACEY K.  
(Not for Publication)**  
The order terminating appellant's parental rights is affirmed.  
                                DAVIS, J.  
We concur:      Scotland, P.J.  
                                Hull, J.
- C029047      TARPIN v. THE DINMOOR GROUP                      (Not for Publication)**  
The judgment and attorney's fees/costs award are affirmed. Defendant shall recover costs and reasonable attorneys fees incurred on appeal. The case is remanded to the trial court for a determination of the amount of defendant's attorney's fee for the appeal.  
                                SIMS, J.  
We concur:      Blease, Acting P.J.  
                                Callahan, J.
- C032764      WAGONER et al. v. CORNETO et al.                      (Not for Publication)**  
The judgment is affirmed.  
                                BLEASE, Acting P.J.  
We concur:      Davis, J.  
                                Hull, J.
- C033711      THE PEOPLE v. BLAIR    (Not for Publication)**  
The judgment is affirmed.  
                                HULL, J.  
We concur:      Scotland, P.J.  
                                Davis, J.
- C032052      THE PEOPLE v. SIMMONS                                      (Not for Publication)**  
The judgment is affirmed.  
                                CALLAHAN, J.  
We concur:      Nicholson, J.  
                                Hull, J.
- C031383      THE PEOPLE v. GUERRERO                                      (Not for Publication)**  
The judgment is affirmed. The cause is remanded, and the court directed to correct the abstract of judgment, and forward the corrected copy to the Department of Corrections.  
                                CALLAHAN, J.  
We concur:      Nicholson, Acting P.J.  
                                Hull, J.

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## August 29, 2000 Continued

Raye, J.

Callahan, J.

Callahan, J.

Raye, J.

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**August 29, 2000 Continued**

- C030622      In re the Marriage of PHIPPEN      (Not for Publication)**  
The judgment is reversed, and the trial court is directed to enter an order holding that the prenuptial agreement is valid. Diane shall pay Scott's costs on appeal. (Cal. Rules of Court, rule 26(a).)  
SCOTLAND, P.J.  
We concur:    Blease, J.  
                 Morrison, J.
- C032363      THE PEOPLE v. SANCHEZ      (Not for Publication)**  
The judgment is affirmed.  
HULL, J.  
We concur:    Nicholson, Acting P.J.  
                 Callahan, J.
- C032076      THE PEOPLE v. PORTILLO      (Not for Publication)**  
The judgment is affirmed.  
HULL, J.  
We concur:    Scotland, P.J.  
                 Sims, J.
- C034905      In re PATTREE B.; SAN JOAQUIN COUNTY HUMAN SERVICES  
AGENCY v. PAMELA A.      (Not for Publication)**  
The orders of the juvenile court are affirmed.  
HULL, J.  
We concur:    Scotland, P.J.  
                 Davis, J.
- C029418      FISHER et al. v. PAINTER et al.      (Not for Publication)**  
We reverse in part and remand for further proceedings consistent with the views expressed herein. We affirm the judgment in all other respects. As required by the interests of justice, we award plaintiffs (respondents) their costs on appeal. (Cal. Rules of Court, rule 26(a)(1), (3).)  
NICHOLSON, J.  
We concur:    Sims, Acting P.J.  
                 Morrison, J.
- C027644      MCCORMICK v. NACHT & LEWIS ARCHITECTS, INC., et al.  
C028752      (Not for Publication)**  
The judgment is affirmed. The parties shall bear their own costs on appeal.  
HULL, J.  
We concur:    Blease, Acting P.J.  
                 Davis, J.

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## August 29, 2000 Continued

C032626	<b>THE PEOPLE v. SHERINGTON</b> The judgment is reversed. CALLAHAN, J. We concur: Sims, Acting P.J. Raye, J.	<b>(Not for Publication)</b>
C035360	<b>In re DE'ANGELO C.; DEPARTMENT OF HEALTH &amp; HUMAN SERVICES v. JACQUELINE C.</b> The orders of the juvenile court are affirmed. BLEASE, Acting P.J. We concur: Sims, J. Hull, J.	<b>(Not for Publication)</b>
C034634	<b>THE PEOPLE v. WILLIS, JR.</b> The trial court is directed to prepare a corrected abstract of judgment reflecting that box No. 7, "Additional indeterminate term," is checked, and to forward a certified copy of the corrected abstract to the Department of Corrections. The judgment is affirmed. HULL, J. We concur: Sims, Acting P.J. Kolkey, J.	<b>(Not for Publication)</b>

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- C034431      THE PEOPLE v. MELGAREJO      (Not for Publication)**  
The judgment is affirmed.  
                                 KOLKEY, J.  
We concur:      Sims, Acting P.J.  
                                 Hull, J.
- C032208      WARNER v. JENISON      (Not for Publication)**  
The judgment is affirmed.  
                                 BLEASE, Acting P.J.  
We concur:      Morrison, J.  
                                 Kolkey, J.
- C026443      THE PEOPLE v. LAND      (Not for Publication)**  
The judgment is modified to stay the service of sentence on counts three and four pursuant to Penal Code section 654, reducing defendant's total unstayed prison term to 18 years. As modified, and in all other respects, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment reflecting this modification and to forward a certified copy of the amended abstract to the Department of Corrections.  
                                 SCOTLAND, P.J.  
We concur:      Davis, J.  
                                 Callahan, J.
- C034161      ESTATE OF LEHMAN; GUHL v. BRUMBAUGH      (Not for Publication)**  
The judgment (order) is affirmed.  
                                 MORRISON, J.  
We concur:      Nicholson, Acting P.J.  
                                 Raye, J.
- C032365      THE PEOPLE v. ROSE      (Not for Publication)**  
The judgment is modified to provide for a \$200 parole fine, stayed pending successful completion of parole (§ 1202.45). The trial court is directed to prepare an amended abstract of judgment accordingly and to forward a certified copy to the Department of Corrections. As modified, the judgment is affirmed.  
                                 MORRISON, J.  
We concur:      Sims, Acting P.J.  
                                 Raye, J.

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- C028947      THE PEOPLE v. LOCKETT      (Not for Publication)**  
The judgment is modified by striking the one-year enhancement under section 667.5, subdivision (b), for defendant's 1992 conviction under section 12021. As modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment and to forward a certified copy thereof to the Department of Corrections.  
KOLKEY, J.  
We concur:    Scotland, P.J.  
                  Nicholson, J.
- C030817      THE PEOPLE v. MUNIAIN      (Not for Publication)**  
The judgment is affirmed.  
CALLAHAN, J.  
We concur:    Nicholson, Acting P.J.  
                  Kolkey, J.
- C033317      THE PEOPLE v. SANDERS      (Not for Publication)**  
The judgment is affirmed.  
RAYE, J.  
We concur:    Davis, Acting P.J.  
                  Callahan, J.
- C033939      THE PEOPLE v. BOSCHKE, III      (Not for Publication)**  
The judgment is affirmed.  
DAVIS, J.  
We concur:    Scotland, P.J.  
                  Hull, J.
- C032797      QUINTO, a Minor, etc., et al. v. THE SUPERIOR COURT OF SAN  
JOAQUIN COUNTY (STATE OF CALIFORNIA)**  
**C032798      OLDS v. THE SUPERIOR COURT OF SAN JOAQUIN COUNTY  
(DEPARTMENT OF TRANSPORTATION) (Not for Publication)**  
Let a peremptory writ of mandate issue commanding the trial court to vacate its order of January 6, 1999, denying petitioners' motions to compel production of evidence, and to enter a new order granting the motions. The alternative writ having served its purpose is discharged. Petitioners are awarded their costs in these writ proceedings.  
HULL, J.  
We concur:    Scotland, P.J.  
                  Sims, J.



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**August 30, 2000 Continued**

**C033495      THE PEOPLE v. WEISBECKER      (Not for Publication)**

The judgment is reversed.

BLEASE, Acting P.J.

We concur:    Davis, J.

Hull, J.

**C031524      THE PEOPLE v. ELLINGTON      (Not for Publication)**

The judgment is affirmed.

CALLAHAN, J.

I concur:      Morrison, J.

I concur in the result:

Blease, Acting P.J.

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**August 31, 2000**

- C030256      THE PEOPLE v. BECERRA      (Not for Publication)**  
The judgment is affirmed.  
HULL, J.  
I concur:      Kolkey, J.  
I concur in the judgment and in the analysis of the opinion except for Part III, "Limitation on Psychiatric Evidence." (See concurring opinion.)  
Sims, Acting P.J.
- C032955      YORN et al. v. CITY OF STOCKTON      (Not for Publication)**  
The judgment is reversed with directions to the trial court to vacate its order granting the motion for summary judgment and enter an order denying the motion. The City is to pay Yorn's costs of this appeal.  
MORRISON, J.  
We concur:      Davis, Acting P.J.  
Kolkey, J.
- C034556      In re SAMUEL M. et al.; SACRAMENTO COUNTY DEPARTMENT OF  
HEALTH AND HUMAN SERVICES v. JOSEPH M.      (Not for Publication)**  
The orders of the juvenile court are affirmed.  
HULL, J.  
We concur:      Sims, Acting P.J.  
Kolkey, J.
- C030937      PARRETT v. MIZE      (Not for Publication)**  
The judgment (order) is affirmed. The request for sanctions is denied. Defendant shall recover his costs on appeal in accordance with California Rules of Court, rule 26(a)(1) and (c).  
KOLKEY, J.  
I concur:      Sims, Acting P.J.  
I concur with the majority's well-reasoned decision to affirm the trial court's order dismissing plaintiff's complaint. However, because this appeal is frivolous, I would impose a sizable award of sanctions in an amount at least sufficient to reimburse defendant for his attorney fees.  
Callahan, J.
- C031274      THE PEOPLE v. PEAY      (Not for Publication)**  
The judgment is affirmed.  
BLEASE, Acting P.J.  
We concur:      Sims, J.  
Nicholson, J.

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**August 31, 2000 Continued**

**C032705      DOUGHERTY, etc., et al. v. BLATT et al. (Not for Publication)**

The judgment is affirmed.

DAVIS, J.

We concur:    Sims, Acting P.J.

Hull, J.

**C033316      In re ROBERT G.; SHASTA COUNTY DEPARTMENT OF HUMAN  
SERVICES v. ADA G. (Not for Publication)**

The judgment is affirmed. The request of DSS to take additional evidence is denied as the evidence proffered is unnecessary to a determination of the issues on appeal.

KOLKEY, J.

We concur:    Sims, Acting P.J.

Callahan, J.

**September 1, 2000**

**There were no minutes for this date.**